

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 1205 of 2005

Between:

Syed Shabbir Hussain Zaidi, S/o. Syed Manzoor Hussain Zaidi, R/o. H.No.22-1-
915, Noorkhan Bazar, Hyderabad.

.... PETITIONER

AND

The A.P. State Wakf Board, rep. by its Chief Executive Officer, Haj House Complex,
Nampally, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or directions more particularly one in the nature of writ of Mandamus to set aside the order of the respondent herein in F.No.16/B2/M/Hyd/2002, dt. 17.1.2005 by declaring the action of the respondent herein in not appointing me as Mutawalli of Dargah Hazrath Khaja Hasan Barhana Shah Shaheb Qibla with the attached properties situated at Phisal Banda, Santosh Nagar, Hyderabad consequently appoint me as a Mutwalli of the afore sad subject Wakf Institution and to pass necessary order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.GADE VENKATESWARA RAO

Counsel for the Respondent : MR.A.M.QURESHI (SC FOR AP WAKF BOARD)

The Court, at the admission stage, made the following:

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ORDER: -

The petitioner submitted applications on 20.8.2001 and 02.02.2002 before A.P. Wakf Board, the respondent herein, for appointment as Mutawalli for Dargah Hazrath Barhana Shah Saheb Mosque, Tomb, Khankha and Graveyard, situated at Phisal Banda area of Edi Bazar, Hyderabad. He approached this Court on earlier occasion, alleging that his applications were not considered in accordance with law. Ultimately, the respondent considered the applications of the petitioner and rejected the same through order, dated 17.01.2005. The petitioner challenges the same.

2. Heard learned counsel for the petitioner and learned Standing Counsel for the respondent.

3. The petitioner claimed that he is the descendant of late Mohd. Quali Quasim Ali and Mohd. Khaleel, who were Inamdars and the original Mutawallis and Mujawars of the Dargah. He has also referred to certain settlements said to have been arrived at, in relation to succession to the office of Mutawalli for the Dargah. The respondent took the view that in the Mutawalli relating to Darga, the name of Mutawalli is shown as "Muslim Wakf Board" and the petitioner cannot be said to be its successor.

4. Though the learned counsel for the petitioner has referred to certain documents in support of his contention that the actual Mutawalli is his ancestor, this Court is not inclined to deal with such contentions in this writ petition. In such matters, recording of evidence and examination of records becomes necessary. Under sub-section (2) of Section 83 of the Wakf Act, 1995 (for short "the Act"), such claims can be dealt with by the Wakf Tribunal.

5. Hence the writ petition is disposed of, leaving it open to the petitioner to workout his remedies before the Wakf Tribunal by instituting proceedings under sub-section

(2) of Section 83 of the Act. In case the petitioner institutes such proceedings, the Wakf Tribunal shall endeavor to dispose of the same without any delay. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Dated : 01.02.2005

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To

1) The A.P. State Wakf Board, rep. by its Chief Executive Officer, Haj House Complex, Nampally, Hyderabad.

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